

REMARKS

This amendment is submitted in reply to the Office Action dated November 15, 2006. Claims 1-5, 8-12, 14-17, 20-23, 35 and 37-39 currently stand rejected. Applicants have amended claims 1, 2, 4, 5, 8, 9, 12, 14, 17, 20 and 35 to improve claim readability and cure claim objections as described below. Newly added claims 40 and 41 have been added to further define patentable aspects of the invention. The amendment does not substantially alter the scope of the claimed invention and no new matter has been added by the amendment.

In light of the amendment and the remarks presented below, Applicants respectfully request reconsideration and allowance of all now-pending claims of the present application.

Claim Objections

Claims 2 and 12 currently stand objected to for containing informalities. Specifically, the Office Action objected to the phrase "said setting up" of claim 2 and the phrase "said message" of claim 12 as lacking antecedent basis. Applicants have amended claims 2 and 12 to cure the above noted deficiencies.

Accordingly, Applicants respectfully request withdrawal of the objections to claims 2 and 12.

Claim Rejections - 35 USC §102

Claims 1-5, 8, 9 and 10 currently stand rejected under 35 U.S.C. §102(e) as being anticipated by Brown et al. (U.S. Patent No. 4,972,461, hereinafter "Brown"). Claims 12, 14, 20, 21, 23, 35, 37 and 39 currently stand rejected under 35 U.S.C. §102(e) as being anticipated by Mukherjee et al. (U.S. Patent No. 6,289,223, hereinafter "Mukherjee").

Claims 1-5, 8, 9 and 10

The Office Action cites Brown as disclosing all of the recited features of independent claim 1. Brown discloses a call message delivery system and method, in which the message status may be delivered to the caller, and the caller may optionally request a response from the message recipient or answering party at the called station.

Brown is directed to the problem of giving non-subscribers of voice messaging services (VMS) the possibility to receive responses to messages sent by them. In order to accomplish this, Brown discloses utilizing a billing code (such as a credit card number) to establish a status memory location for storing a delivery status of a voice message, which then can be checked by the caller for responses and the like. The delivery status can be indicated by a message, and a message status notification call may be sent to the caller. However, according to Brown, the delivery status and any other notifications provided to the caller are so provided in response to the caller's specific request. The passages cited by the Office Action are further indicative of this fact. For example, the passage in col. 9, line 61 to col. 10, line 18 of Brown describes that the caller may be offered different kinds of message status information, from which the caller may select from among the different status categories. At col. 12, line 36 to col. 14, line 53, Brown describes that the caller may get delivery reports. In particular, in the passage cited by the Office Action at col. 13, lines 28-44, Brown describes measures that are taken in case a message was delivered unsuccessfully such as, for example, a corresponding information being sent to the caller. However, Brown again makes clear that status notifications are optional features selected by the caller (col. 14, lines 57-59).

None of the cited passages of Brown, nor indeed all of the disclosure of Brown, teaches or suggests transmitting a delivery report to the originator of the message only when the originator of the message is **allowed** to receive the delivery report as recited in independent claim 1. The concept of a message originator being allowed to receive reports is absent from Brown. Delivery of such reports according to Brown is not conditioned on a status of the originator as being allowed to receive the report, but instead based on whether or not the originator has asked to receive such report. Thus, none of the passages cited by the Office Action, or all of Brown, discloses that a possibility can be set which allows or prohibits a caller to receive delivery reports. Brown only describes different operations which are available for the caller (in particular, a non-subscriber to which the above-described memory location is assigned using his billing code). As such, Brown does not even take into account that a calling party does not want to accept calls or messages, and in addition does not want to be sent delivery reports. Since Brown fails to teach or suggest at least the claimed feature of transmitting a delivery report to the originator of the message only when the originator of the message is **allowed** to receive the delivery report as recited in independent claim 1, Brown does not anticipate independent claim 1.

Claims 2-5, 8, 9 and 10 depend either directly or indirectly from independent claim 1 and therefore include all the recitations of independent claim 1. Dependent claims 2-5, 8, 9 and 10 are therefore patentable for at least the same reasons given above for independent claim 1.

Accordingly, Applicants respectfully submit that the rejections of claims 1-5, 8, 9 and 10 are overcome.

Claims 12, 14, 20, 21, 23, 35, 37 and 39

Independent claims 12 and 35 are directed to a network system and a terminal device, respectively, for employment of the method of independent claim 1. As such, independent claims 12 and 35 contain substantially similar recitations to those of independent claim 1 at least with regard to transmitting delivery reports to originators allowed to receive such reports.

Mukherjee describes sending of multipoint SMS messages, which are delivered to a plurality of receivers at the same time (see abstract). In this regard, originators of such multipoint SMS messages need to have an authorization to send such SMS messages, as described at col. 4, lines 7-9 and lines 17-24 of Mukherjee, for example, and as also cited by the Office Action. In col. 6, lines 13-20, Mukherjee describes that a failure report is sent to an originating MS who is not authorized to send such a multipoint SMS.

On the other hand, as described at col. 6, lines 21-30 of Mukherjee, the multipoint SMS message is sent to the corresponding usergroup in case there are no user restrictions (which relate to reception of the multipoint SMS message only). In case of success, a delivery report is sent to the originating MS (i.e., the delivery report is sent anyway). As mentioned in Applicants' prior response, the term "user restrictions" of Mukherjee refers to the full process of sending a message and sending the corresponding delivery report, and not to only sending of delivery reports. Moreover, Mukherjee fails to teach or suggest that the user restrictions can be such that some originators are excluded from sending the messages, etc., as is possible in embodiments according to independent claims 12 and 35. In addition, the feature regarding the list of originators allowed to receive delivery reports is not taught or suggested by Mukherjee. In this regard, it is not seen how the purported specified originator list of FIG. 2 provides a list of originators allowed to receive delivery reports.

Based on the remarks above, it can be seen that Mukherjee fails to teach or suggest restricting sending of the delivery reports. Moreover, the problem underlying these features

(namely to avoid revealing the location of the user, for example, as described in the present application on page 6, lines 25-32) does not appear to be addressed at all. Thus, for all the reasons stated above, Mukherjee fails to teach or suggest transmitting delivery reports to originators allowed to receive the delivery reports as determined by a judging unit as generally set forth in independent claims 12 and 35. Therefore independent claims 12 and 35 are patentable and non-obvious in view of Mukherjee.

Claims 14, 20, 21, 23, 37 and 39 depend either directly or indirectly from independent claims 12 and 35, respectively, and therefore include all the recitations of their respective independent claims. Dependent claims 14, 20, 21, 23, 37 and 39 are therefore patentable for at least the same reasons given above for independent claims 12 and 35.

Accordingly, Applicants respectfully submit that the rejections of claims 12, 14, 20, 21, 23, 35, 37 and 39 are overcome.

Claim Rejections - 35 USC §103

Claim 11 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Brown in view of Mukherjee. Claim 15 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Mukherjee in view of Alperovich et al. (U.S. Patent No. 6,119,014, hereinafter "Alperovich"). Claims 16, 17, 22 and 38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mukherjee in view of Gleason (U.S. Patent No. 5,966,663).

As stated above, both Brown and Mukherjee fail to teach or suggest transmitting delivery reports to originators allowed to receive the delivery reports as generally set forth in independent claims 1, 12 and 35. Alperovich also fails to teach or suggest the corresponding recited features of independent claims 1, 12 and 35 and is not cited as such. It appears as though Gleason is cited as disclosing the feature described above at col. 12, lines 57-61, col. 20, lines 44-53 and col. 25, lines 16-26.

Gleason discloses a data communications protocol for facilitating communications between a message entry device and a message center (see abstract). In particular, Gleason is directed to simplifying the creation of messages. The passage at column 12, lines 57-61 of Gleason describes that a delivery report may be requested as such. The passage at column 20 of Gleason describes conditions for sending a message and how a user may set these conditions and

the passage at column 25 of Gleason describes some more detailed options regarding the message delivery reports (or notifications). However, none of the cited passages of Gleason describes or even suggests that delivery reports may be blocked depending on the originator (e.g., delivery reports are only transmitted to originators allowed to receive the delivery reports) as generally set forth in the claimed invention. Thus, Gleason also fails to teach or suggest the aforementioned features of independent claims 1, 12 and 35.

Since the cited references each fail to teach or suggest the aforementioned features of independent claims 1, 12 and 35, any combination of the cited references also fails to teach or suggest the subject matter of independent claims 1, 12 and 35. Thus, the cited references, taken either individually or in combination, do not anticipate, or render independent claims 1, 12 and 35 obvious. Claims 11, 15-17, 22 and 38 depend either directly or indirectly from a respective one of independent claims 1, 12 and 35, and as such, include all the recitations of their respective independent claims. Dependent claims 11, 15-17, 22 and 38 are therefore patentably distinct from the cited references, individually or in combination, for at least the same reasons as given above for independent claims 1, 12 and 35.

Accordingly, for all the reasons stated above, Applicants respectfully submit that the rejections of claims 11, 15-17, 22 and 38 under 35 U.S.C. §103(a) are overcome.

Newly Added Claims

Applicants have added new claims 40 and 41 to more particularly define aspects of the present application. The new claims include no new matter and are fully supported by the specification and the drawings of the present application.

Accordingly, it is believed that the new claims are in condition for allowance.

Appl. No.: 10/089,681
Amdt. Dated 02/15/2007
Reply to Office Action of 11/15/2006

CONCLUSION

In view of the amendments and the remarks submitted above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Chad L. Thorson
Registration No. 55,675

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON FEBRUARY 15, 2007.
LEGAL02/30259577v1